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EXAMINER

MCKINNON, TERRELL L

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GABRIEL L. SUCIU, IOANNIS ALVANOS, and
BRIAN D. MERRY

Appeal 2015-000639
Application 13/417,606
Technology Center 3600

Before CHARLES N. GREENHUT, PAUL J. KORNICZKY, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

KORNICZKY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants, Gabriel L. Suci et al.,¹ appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1–5, 7–14, 17, and 18.² We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants identify United Technologies Corporation as the real party in interest. Br. 2.

² Claims 6, 15, and 16 are cancelled. Br. 9–11 (Claims App.).

THE CLAIMED SUBJECT MATTER

The claims are directed to “an engine mounting configuration and, in particular, to an engine mounting configuration for mounting a turbofan gas turbine engine to an aircraft pylon.” Spec. ¶ 1. Claims 1 and 8 are the independent claims. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A mount for a turbine engine, comprising:
 - a semi-circular yoke having a first leg and a second leg;
 - a stanchion comprising:
 - a cylindrical section attached to the yoke; and
 - a conical section attached to the cylindrical section;
 - and
 - a mounting bracket attached to the conical section;
 - wherein the mounting bracket contains a spherical bearing configured to receive a fastener and allow for rotation of the mounting bracket about an axis of the stanchion that is perpendicular to the engine axis.

REFERENCES

In rejecting the claims on appeal, the Examiner relied upon the following prior art:

Sasaki	US 6,612,744 B2	Sept. 2, 2003
Dron	US 7,909,285 B2	Mar. 22, 2011
McCaffrey	US 2007/0033795 A1	Feb. 15, 2007
Diochon	US 2007/0108341 A1	May 17, 2007

REJECTIONS

The Examiner made the following rejections:

1. Claim 13 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

2. Claims 1, 7–9, 12–14, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Diochon and McCaffrey.

3. Claims 2–5 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Diochon, McCaffrey, and Dron.

4. Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Diochon, McCaffrey, Dron, and Sasaki.

Appellants seek our review of these rejections.

ANALYSIS

The Rejection of Claim 13 As Being Indefinite

The Examiner finds that “Claim 13 [is] indefinite because it is unclear what Applicant is referring to by the language ‘wherein only the first leg also counteracts a side load.’ . . . the phrase ‘a side load’ has not been sufficiently described. It is unclear which ‘side’ Applicant is referring to since the ‘sides’ have not been defined.” Final Act. 3.

In response to the rejection, Appellants state that “[s]upport and explanation [for a side load] are provided in the specification at paragraphs 0017 and 0020. Side load S is even listed as a reference in the drawings. The engine as mounted will have only the side load S as noted and described.” Br. 7.

We agree with Appellants that a person of ordinary skill in the art would readily discern and give meaning to the disputed term. The rejection of claim 13 cannot be sustained.

The Rejections of Claims 1–5, 7–14, 17, and 18

Appellants argue claims 1–5, 7–14, 17, and 18 as a group. Br. 5–7. We select claim 1 as the representative claim, and claims 2–5, 7–14, 17, and 18 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

The Examiner finds that Diochon discloses all of the limitations of claim 1 except for the limitations calling for “a cylindrical section attached to the yoke” and a “mounting bracket contain[ing] a spherical bearing.” Final Act. 4–5. The Examiner’s determination that “it would have been obvious matter of design choice to have a support post having a cylindrical lower section and a conical upper section since such a modification would have involved a mere change in the size of a component” (*Id.* at 4–5) is not contested by Appellants. The Examiner finds that McCaffrey discloses the missing “spherical bearing” limitation and determines that it would have been obvious to combine McCaffrey’s spherical bearing with Diochon’s mount “to provide a mounting bracket that has more adjustability therefore lending itself for a greater variety of engine types.” *Id.* at 5.

Appellants present several arguments asserting that the Examiner’s rejection is incorrect. Appellants argue that Diochon, which discloses a rigid mounting bracket/device, “teaches away from . . . a spherical bearing [which] allows for rotation of the mounting bracket.” Br. 5–7. According to Appellants, “[p]lacing a spherical bearing in this location would not allow Diochon to perform the intended function as the presence of rotation would

not provide rigid attachment fixed to the main box.” *Id.* (citing to Diochon ¶¶ 19, 46-48). The intended purpose of Diochon’s mounting device is to provide “a mounting device for engines that will be inserted between an aircraft wing and an engine” (¶ 1), “to form the connecting interface between an engine and a wing of the aircraft [and] transmit[] forces generated by the associated engine to the aircraft structure” (¶ 4), and to “minimize longitudinal bending of the engine due to the thrusts, so as to minimize constraining friction, without needing to oversize the operating clearances mentioned above” (¶ 12). Appellants’ citations to paragraphs 19 and 46–48 of Diochon merely disclose one way — a rigid bracket — to accomplish these purposes. Because Diochon does not criticize, discredit, or otherwise discourage the use of a spherical bearing in its mounting device, Diochon does not teach away from the claimed invention, or interfere with Diochon’s intended function. *See In re Fulton*, 391 F.3d 1195, 1199–1201 (Fed. Cir. 2004) (To teach away, a reference’s disclosure must “criticize, discredit or otherwise discourage the solution claimed.”). Further, an intended purpose is defeated by using something other than the particular means used to achieve that purpose. Thus, we are not persuaded that Diochon teaches away from the proposed combination.

In addition, the Examiner’s articulated reasoning for combining Diochon and McCaffrey — “to provide a mounting bracket that has more adjustability therefore lending itself for a greater variety of engine types” (*Id.* at 5) — has rational underpinning. Appellants do not contest the Examiner’s reasoning and, thus, do not apprise us of error.

For the reasons above, the rejection of claim 1 must be sustained. Claims 2–5, 7–14, 17, and 18 fall with claim 1.

DECISION

For the above reasons, the Examiner's rejection of claim 13 under 35 U.S.C. § 112, second paragraph, is REVERSED.

The Examiner's rejections of claims 1–5, 7–14, 17, and 18 under 35 U.S.C. § 103(a) are AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED